

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MIGUEL DE FREITAS,

Petitioner,

-against-

J.T. SMITH, Superintendent,

Respondent.
-----X

FEUERSTEIN, J.

ORDER
12-CV-5072 (SJF)
FILED
IN CLERK'S OFFICE
U S DISTRICT COURT E D N Y

★ OCT 15 2012 ★

LONG ISLAND OFFICE

Miguel De Freitas ("petitioner"), appearing pro se, filed a petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254 ("section 2254"). [Docket Entry No. 1]. Petitioner challenges his May 5, 1992 conviction upon a jury verdict of attempted murder in the first degree, two (2) counts of robbery in the first degree, possession of a weapon in the second and third degrees, and reckless endangerment in the first degree, as well as his subsequent sentence. In accordance with Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the undersigned has reviewed the petition and determined that the petition should not be summarily dismissed pursuant to Rule 4. Accordingly, it is:

ORDERED that the Clerk of Court shall serve, by electronic transmission, a copy of this Order, the petition, and petitioner's affidavit dated September 25, 2012, together with the exhibits annexed thereto, on the attorney for respondent, J.T. Smith; and it is further

ORDERED that respondent shall file with the Clerk of Court a limited answer to the petition addressing the timeliness of the petition under 28 U.S.C. § 2244(d) within thirty (30) days of the date of this Order, with proof of service. However, if respondent concedes that the petition is timely, respondent shall file with the Clerk of Court a complete and entire answer to the petition within sixty

(60) days of the date of this Order, with proof of service; and it is further

ORDERED that if the petition is timely, respondent shall prepare the state court record to be produced and filed upon the Court's request; and it is further

ORDERED that respondent shall deliver a courtesy copy of the answer to the Court; and it is further

ORDERED that no reply is required, but should petitioner want to reply, the reply shall be served on respondent's counsel and filed with the Clerk of Court within thirty (30) days of receipt of the answer.

SO ORDERED.

s/ Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: October 15, 2012
Central Islip, New York